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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,943	12/01/2003	Christopher J. Stone	BCS03152_USA	3634
43471	7590	10/08/2008	EXAMINER	
Motorola, Inc. Law Department 1303 East Algonquin Road 3rd Floor Schaumburg, IL 60196			GRAHAM, PAUL J	
			ART UNIT	PAPER NUMBER
			2426	
			NOTIFICATION DATE	DELIVERY MODE
			10/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/724,943</p>	<p>Applicant(s) STONE, CHRISTOPHER J.</p>	
	<p>Examiner PAUL J. GRAHAM</p>	<p>Art Unit 2623</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: further search will be required. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: see notes.

/Vivek Srivastava/
Supervisory Patent Examiner, Art Unit 2623

The reply to final office action of 5/13/08 was filed 7/14/08; it remarks on amended claims. Further consideration and/or search may be required.

Response to Arguments

Applicant argues:

Combination of Agnihotri and Pessach is improper.

The world-wide web, although designed to be a peer-to-peer network has become in practice a client-server network. The original intent for www was that each user of the web would be an editor and contribute to the interlinked network; in practice, the network transmissions are based on directed channels from a "client" to a "server" and vice versa. Some networks propose to use peer-to-peer, but even the use of directory servers in those networks (e.g., Freenet) tarnishes that image; however, the procession of the world-wide web as a network has NOT been destroyed nor weakened by the use of centralized abstractions even though its objective is to treat users as peers. Analogously, the combination of Agnihotri with Pessach does not destroy the system.

With respect to the argument that Agnihotri uses centralized control and Pessach uses peer-to-peer. The Examiner respectfully disagrees. It is known that some peer-to-peer technologies employ the multicast concept when distribution is to many recipients. In the event a rare or hard to find unit is requested a centralized structure aids a peer-to-peer network in accommodating its clients; such was the case with the original Napster, which, although a peer-to-peer network, would use central servers to maintain lists of files and connections.

Agnihotri reduces the amount of bandwidth used, Pessach does not.

This is a non-sensical argument. It is a well known fact that an objective of a multicast system is to reduce bandwidth use and network traffic by addressing multiple targets simultaneously, potentially through an intermediate stage (see Bahr, US2004/0210927 A1, [25-26]). So more bandwidth use is NOT an inherent feature of multicasting.

Claim 4 is not read on by rejection.

The Examiner respectfully disagrees. As noted in Office Action, 5/13/08, Agnihotri does disclose a requesting DVR (or recording/playback device) transmitting a recording task request to a granting DVR (see Agnihotri, [41]). This is very clear from the prior art cited.

Agnihotri does not teach interaction from requesting DVR to granting DVR

This argument has been treated. The Examiner respectfully disagrees with applicant's assessment. Agnihotri does teach that a requesting video recorder/playback machine is advised of non-availability (see Agnihotri, [39]). This is done via the interplay of statistics tables and data files, the resource sharing is communicated by server and requesting device (see Agnihotri, [38-39]). A further determination of device availability is made upon request, where notice is necessarily available to alert the system to correct choices of available resources.

Breslauer does not disclose anywhere that there is any interaction between two devices.

This argument has been treated previously. The Examiner respectfully disagrees with applicant's assessment. It is further noted that the applicant's argument suffers from categorical fallacy. Of course, Breslauer discloses interaction between two devices, it is noted that fig. 5, as suggested by the cited reference, discloses interaction between two devices, through a multimedia manager (see Breslauer, fig. 3, for further support). As for the argument that information may be shared too freely, destroying the conditional access system of the combined system used in rejection, it should be noted that said argument could be posed to instant invention. Given the instant specification's brevity, there is very little support for conditional access (see instant spec, [20] mentions the possibility (in example) of a conditional access system at the headend—that is the extent of it). This begs inquiry about the application's possession of the claimed invention and its enablement, a clear Section 112 violation.

Claim 21 does not recite intermediate storage.

Given that it is not recited (per remarks 7/14/08) in claim 21, it is a moot point to argue it.

However, please note that dependent claim 21 does include the limits of independent claim 20 and "said granting DVR stores" may be seen as intermediate storage, further, the mention of intermediate storage was in the alternative as representing a hub or intermediate device, for further illustration.

Additionally, the applicant's response has been received after the final rejection has been mailed out. For the arguments/amendments presented to be properly entertained it is recommended that the applicant file a Request for Continued Examination (RCE), per 37 CFR 1.114.